



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2013-0446; FRL-9900-39-Region 7]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) for the state of Iowa. The purpose of these revisions is to update the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. The revisions reflect updates to the Iowa statewide rules previously approved by EPA and will ensure consistency between the applicable local agency rules and Federally-approved rules.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]

without further notice, unless EPA receives adverse comment by

[INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. If EPA receives adverse comment, we will publish a

timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2013-0446, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.
2. Email: jay.michael@epa.gov
3. Mail or Hand Delivery: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2013-0446. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or email information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that

is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m. excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7460, or by email at jay.michael@epa.gov

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following questions:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA Taking?

I. What is Being Addressed in this Document?

The State of Iowa has requested EPA approval of revisions to the local agency's Rules and Regulations, Chapter V, "Air Pollution," as a revision to the SIP. In order for the local program's "Air Pollution" rules to be incorporated into the Federally-enforceable SIP, on behalf of the local agency, the State must submit the formally adopted regulations and control strategies, which are consistent with the State and Federal requirements, to EPA for inclusion in the SIP. The regulation adoption process generally includes public notice, a public comment period and a public hearing, and formal adoption of the rule by the State authorized rulemaking body. In this case, that

rulemaking body is the local agency. After the local agency formally adopts the rule, the local agency submits the rulemaking to the State, and then the State submits the rulemaking to EPA for consideration for formal action (inclusion of the rulemaking into the SIP). EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the State's submission.

EPA received the request from the State to adopt revisions to the local air agency rules into the SIP on September 23, 2011. The revisions were adopted by the local agency on July 26, 2011, and became effective on August 3, 2011. EPA is approving the requested revisions to the Iowa SIP relating to the following:

- Article I. In General, Section 5-1. Purpose and Ambient Air Quality Standards;
- Article I. In General, Section 5-2. Definitions;
- Article III. Incinerator and Open Burning, Section 5-7. Open Burning Prohibited;
- Article X. Permits, Division I. Construction Permits, Section 5-33. Exemptions From Permit Requirements;
- Article X. Permits, Division I. Construction Permits, Section 5-35. Operating Permit Required.

EPA's action does not cover revisions to:

- Article VI. Emission of Air Contaminants From Industrial Process, Section 5-17. Excess Emissions;
- Article VI, Sections 5-16 (n), (o), and (p) which pertain to New Source Performance Standards (NSPS);
- Article VIII, which pertain to National Emission Standards Hazardous Air Pollutants (NESHAPS).

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V.

III. What Action is EPA Taking?

We are taking direct final action to approve the amendments to the Polk County Board of Health Rules and Regulations, Chapter V, "Air Pollution." The local agency routinely revises its "Air Pollution" regulations to be consistent with the Federally-approved Iowa Administrative Code. The local agency's "Air Pollution" rules are consistent with State and Federal regulations and were revised as follows:

Article I, Section 5-1(b) was revised to cite the cross-reference to the approved State rules at (455B). Section 5-1(c)

revised the amendment dates for each chapter of the Federally-approved State rules. Section 5-2 added the definitions for Greenhouse gases, Regulated NSR pollutant, Subject to regulation, and revised the definition of major stationary source.

Article III, Section 5-7, addresses open burning regulations and a section was added that states these rules do not apply to outdoor patio heaters burning natural gas, propane, or alcohol. This section further states that such heaters shall not be used for burning refuse, rubbish or garbage.

A revision was made to Article X, Division 1, Construction Permits, Section 5-33(6) that refers to incinerators and pyrolysis cleaning furnaces with a manufacturer's design capacity less than 25 pounds per hour. The sentence that refers to single family dwelling's compliance with Section 5-16 was removed. An addition to the pyrolysis cleaning furnace exemption added electric-use furnaces. Under this same article, bathroom vent emissions, including toilet vent emissions was added to the list of exemptions.

Article X, Division 2, Operating Permits, Section 5-35, (b)(1) and (b)(2) added the phrase "subject to regulation" to differentiate from pollutants that are not regulated. Under this same article and section, a paragraph was added to address

greenhouse gas emissions at a stationary source that emits or has the potential to emit less than 100,000 tons per year of carbon dioxide equivalent emissions. Under this same article, bathroom vent emissions, including toilet vent emissions was added to the list of exemptions.

We are publishing this rule without a prior proposed rule because we view this as a noncontroversial amendment and anticipate no adverse comment because the revisions are largely administrative and consistent with Federal regulations. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the

effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 1, 2013

Mark Hague
Acting Regional Administrator,
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart Q - Iowa

2. In 52.820 the table in paragraph (c) is amended by revising the entry for "Chapter V" under the heading "Polk County" to read as follows:

§ 52.820 Identification of plan.

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(c) * * *

EPA-Approved Iowa Regulations

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
* * * * *				
Polk County				
CHAPTER V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V	08/03/11	[insert date of <u>Federal Register</u> publication and insert <u>Federal Register</u>	Article I, Section 5-2, definition of "variance"; Article VI, Sections 5-16(n), (o) and (p); Article VIII;; Article IX, Sections 5-27(3)

			<u>page number</u> <u>where the</u> <u>document</u> <u>begins]</u>	and (4); Article X, Section 5-28, subsections (a) through (c); Article XIII and Article XVI, Section 5-75 are not part of the SIP. Article VI, Section 5-17, adopted by Polk County on 7/26/2011, is not part of the SIP, and the previously approved version of Article VI, Section 5-17 remains part of the SIP.
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